of the plaintiff that create the nuisance, but rather the acts of third parties over whom the plaintiff has no control. It is clearly settled in the law of England that "a man is or may be liable to an indictment for attracting, even by something lawfully done on his own premises, a crowd in the street adjoining his premises," *Lyons, Sons Company* v. *Gulliver and The Capital Syndicate, Ltd.*, 78 J. P. 98, 100; *Bettertons' Case,* Holt 538; *Rex* v. *Moore,* 3 B. and Ad. 184; *Rex* v. *Carlile,* 6 Car. and P. 636; *Walker* v. *Brewster,* L. R. 5 Eq. 25; *Inchbald* v. *Robinson and Barrington,* L. R. 4 Ch. 388; *Wagstaff* v. *Edison Bell Phonograph Corp., Ltd.,* 10 T. L. R. 80. See, also, 78 J. P. 170, "NUISANCES BY THEATRE QUEUES—OCCUPIERS ADJOINING THE HIGHWAY." However, in the United States this proposition is not so well settled, and practically the only precedent, in addition to those cited by the court, found in our reports, is *Seastream* v. *New Jersey Exhibition Co.,* 67 N. J. Eq. 178, where Sunday baseball games were temporarily enjoined, when the crowd attracted by them became a nuisance to adjoining property owners. The present case is also peculiar in the way in which the question arises. It is not a suit to enjoin the opera company from producing German opera, but is a motion by the opera company for a continuation of an injunction *pendente lite,* restraining the mayor from interfering with such production,—and the mere fact that this motion was denied would not necessarily mean that an injunction would be given in a suit of the former kind against the opera company. The court recognizes that it is denying the plaintiff the exercise of a right or privilege, but it is not apparent from the report whether the court bases its decision primarily upon the relative unimportance of this privilege as compared with the serious consequences of its exercise, or primarily upon the ground that the court would have enjoined its exercise if suit were brought against the plaintiff seeking such injunction. If the decision rests upon the second ground, it is apparent that the courts of this country are adopting and following a well-settled principle in the law of England. See cases cited, *supra.*

NUISANCE—UNDERTAKING ESTABLISHMENT IN PURELY RESIDENTIAL DISTRICT A "NUISANCE."—Action to restrain defendant from continuing an undertaking establishment in a purely residential district. It was shown that the occupants of adjacent houses were mentally depressed by its presence; that they lived in constant fear of contagion; that property in the vicinity was being decreased in value, and that there was a remote probability of transmission of contagious disease. *Held,* a nuisance under a statute providing that anything such as "to essentially interfere with the comfortable enjoyment of life and property is a nuisance." *Goodrich* v. *Starrett* (Wash., 1919), 184 Pac. 220.

The business of an undertaker is not a nuisance *per se* and the burden of showing that it is a nuisance is on the complainant. *Westcott* v. *Middleton,* 43 N. J. Eq. 478. One ground for the decision in the principal case and in *Densmore* v. *Evergreen Camp No. 147, W. of W.,* 61 Wash. 230, was the mental inquietude and depression caused by the presence of death, the conveying in and out of bodies, the conducting of funerals, etc. It has also been

held that such mental depression, horror and dread lower vitality and resistance to disease, and deprive the home of the comfort and repose to which the owner is entitled. *Saier* v. *Joy*, 198 Mich. 295 (undertaker). It was decided however in *Westcott* v. *Middleton, supra,* that the discomfort must be produced through the organs of the senses and not by imagination or a morbid taste. It appears also that the depressive effects of thoughts of death when occasioned by a cemetery do not constitute "sensible personal discomfort" which the law will recognize. *Monk* v. *Packard,* 71 Me. 309; and that such suggestions afford no ground for relief even when sufficient to lessen the market value of adjacent premises. *Rea* v. *Tacoma Mausoleum Ass'n,* 103 Wash. 429; and that contemplation of death may even be beneficial and of a "salutary influence." *Ellison* v. *Commissioners of Town of Washington,* 58 N. C. (5 Jones' Eq.) 57. A cemetery is not a nuisance *per se. Kingsbury* v. *Flowers,* 65 Ala. 479; but may become such by reason of its location or condition. *Monk* v. *Packard, supra.* A private or public tomb or cemetery is not a nuisance unless it corrupts the atmosphere with unwholesome or noxious stenches, or corrupts the water of wells or springs or impregnates the soil with noxious gases or substances. WOOD, NUISANCES, 3rd Ed., p. 6-12, and cases cited. In actions against hospitals or sanitariums, fear of contagion, even when unreasonable and scientifically unfounded, has been made the basis of injunctive relief. *Everett* v. *Paschall,* 61 Wash. 47; *Stotler* v. *Rochelle,* 83 Kan. 86. See also note in 17 MICH. L. REV., p. 428.

SLANDER—REPETITIONS BY THIRD PERSONS—MEASURE OF DAMAGES.—In review of an action for slander wherein evidence of unauthorized and unprivileged repetitions of the statement was allowed to prove the full measure of damages and such evidence was later struck from the record. *Held,* reversing the lower court, the admission of this evidence was error,—unauthorized and unprivileged repetitions of a slander, current rumors and reports of it are not to be anticipated by the originator, and damages resulting therefrom are not the natural or probable consequences of his utterance; the intervening repetitions, rumors, or reports are the proximate cause of such damages. *Maytag* v. *Cummins* (C. C. A., 8th Circ, 1919), 260 Fed. 74.

This is the general authoritative rule in this country today, *Elmer* v. *Fessenden,* 151 Mass. 359, 5 L. R. A. 724; *Age-Herald Publishing Co.* v. *Waterman,* 188 Ala. 272, Ann. Cas. 1916E, 900, 25 Cyc. 506, note 82; and a plaintiff may recover from the original utterer of a slander only so much damages as a jury thinks ensued from the original utterance, considered by itself. The basis of this rule, as stated in the principal case, is that evidence of repetitions, reports, and rumors of the original utterance will be hearsay, simple or multiple, within the ban of the hearsay rule, and morever, for each unauthorized and unprivileged repetition a party has his action against the utterer. But in a clear and well-reasoned dissent from the general rule laid down above, Stone, J., states the counter rule,—that evidence of unauthorized and unprivileged repetitions of defamatory statements is admissible in defamation cases—upon the theory that the defendant is responsible for the natural and probable consequences of his slanderous utterance,—and whether the